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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/297,406	04/29/99	HEILAND	C KKF1P005

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PM82/1205

EXAMINER

BRITTAIN, J

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 12/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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**Office Action Summary**

Application No.

09/297,406

Applicant(s)

HEILAND, CHRISTOPH

Examiner

James R. Brittain

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.

4a) Of the above claim(s) 3, 6, 7, 11, 13, 14, 16-18, 20, 21, 24-26, 28, 29, 31 and 32 is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 8-10, 12, 15, 19, 22, 23, 27 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species III in Paper No. 5 is acknowledged.

Claims 3, 6, 7, 11, 13, 14, 16-18, 20, 21, 24-26, 28, 29, 31 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

### ***Information Disclosure Statement***

The references cited in the Search Report for the corresponding international application PCT/EP97/05961 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 form, must be filed within the set period for reply to this Office action.

### ***Specification***

The disclosure is objected to because of the following informalities: The reference to claims 1 and 10 on page 1, line 16 is objected to as inappropriate in context and should be deleted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 5, 8-10, 12, 15, 19, 22, 23, 27 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "or its half-profiles" (claim 1, lines 3-4) renders the claim unclear in scope. It is not particularly pointed out if only half-profiles are made and then joined by other non-integral structure or if the crosspiece is made from the same plastic as the grip jaws by extrusion. All the method claims are indefinite because they are not written in a form with active method steps. Claim 9, for example, has no active method steps and since there are no active method steps the scope is unclear.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 10, 12 and 30, so far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by D'Eugenio (US 3,832,757).

D'Eugenio (figures 1 and 2) suggests extruding the clamping jaws of the clothespins with break points to allow the severing of the clips from each other. No active method steps are provided to define what structure is actually extruded. There is no statement in the claim that the method comprises extruding grip jaws extending into pincer portions with a crosspiece uniting the two in a unitary extruded plastic clamp. The

spring provides the biasing force and is considered to be applied in a calibration zone. The severing step is unordered in the sequence since there are no active method steps in this claim and the grip jaws are obviously severed from each other at points considered break points.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8-10, 12 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Visser (US 5,625,931) in view of D'Eugenio (US 3,832,757). Visser '931 (figure 1) teaches clamp structure with apertures 38 in the handles. The difference is that it is not stated that extrusion is the method by which the clasp is made. However, D'Eugenio (figures 1, 2) teaches that it is well known to use the extrusion process which can form apertures in the handles of the clamp. It would have been obvious to use the extrusion process to form the apertures in the handles of the clamp of Visser '931 in view of D'Eugenio suggesting that it is known that extrusion can form such a configuration. As to the process claims, these claims do not recite active steps. However, D'Eugenio teaches that extrusion is well known in the clamp arts to form clamps with apertures in the handles and it would have been obvious to use such a process with an integral crosspiece joining the gripping members. The break points are

clearly shown in the extrusion process of D'Eugenio as connection the clamping elements together.

Claims 2, 15, 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Visser (US 5,625,931) and D'Eugenio (US 3,832,757) as applied to claim 1 above, and further in view of Stalder (US 3,733,656) or Rose (US 2,931,086). Further modification of the clamp of Visser '931 such that the gripping jaws also include hollow profiles as shown by D'Eugenio in a unitary clamp would have been obvious in view of Stalder in which there is a space between the gripping faces B, G and the supporting backs C, F as shown in figures 2 and 3 of a unitary clamp or in view of Rose (figure 1) which shows matching recess in the gripping jaws 26 of a unitary clamp. The gripping, clamping and/or connection points are clearly shown by D'Eugenio.

Claims 4, 5, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Visser (US 5,625,931) and D'Eugenio (US 3,832,757) as applied to claim 1 above, and further in view of Jio (US 5,179,768). Further modification of the clamp of Visser '931 which includes multiple crosspieces to bias the jaws together such that there is an added spring to aid the crosspiece would have been obvious in view of Jio (figures 2-5) in which the spring comprising the fingers 20, 30 which join at their ends at an angle are stressed and "helping the bridge 4 to force the upper toothed portions to close up so that the toothed portions can pinch with much force" (col. 2, lines 33-37).

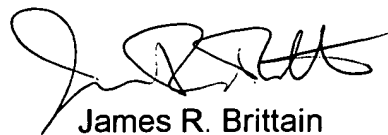
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Klein (US 3,043,902), Klopp (US 3,629,912), Visser et al. (US 5,522,290), Revis (US 5,361,463), Boisvert (US 5,655,270), Cohen et al. (US 4,839,947) and Delahousse et al. (US 4,514,885) teach pertinent clamp structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain  
Primary Examiner  
Art Unit 3626

jrb  
November 30, 2000